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5 Attorney for Defendant  
6 MICHAEL TOMADA

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 OAKLAND DIVISION  
10

11 UNITED STATES OF AMERICA,	)	CR-14-0285 JST
12 Plaintiff,	)	STIPULATION AND <del>[PROPOSED]</del> ORDER
13 vs.	)	VACATING STATUS CONFERENCE DATE
14 JEREMY DONAGAL, et al.,	)	AND SETTING NEW DATE FOR FURTHER
15 Defendants.	)	<u>STATUS CONFERENCE</u>
16	)	
17	)	

18 The United States of America, by its attorneys, Melinda Haag, United States  
19 Attorney ("USA"), and Assistant United States Attorney ("AUSA") KEVIN BARRY, and  
20 defendants MICHAEL TOMADA and CHRISTOPHER NEELY, by their respective  
21 counsel, attorneys Peter Goodman and Brian Berson, hereby submit this Stipulation  
22 and [Proposed] Order requesting that the April 10, 2015, date currently set for the  
23 defendants to appear before this Court for a Status Conference be vacated and their  
24 cases be continued to May 22, 2015, for a further Status Conference.

25 The parties hereby stipulate and agree to the following:

26 1. On May 22, 2014, an eleven count indictment was returned in this matter.  
27 Seven defendants, including defendants TOMADA and NEELY, were charged with  
28 conspiring to possess and possessing with the intent to distribute alprazolam and other

1 controlled substances in violation of 21 U.S.C. §§846 and 841(a)(1).

2 2. On May 30, 2014, Nicole Giacinti was appointed to represent defendant  
3 TOMADA.

4 3. On January 14, 2015, Ms. Giacinti filed an *Ex Parte Request to Withdraw*  
5 *As Counsel* as the result of a conflict of interest created by her acceptance of a position  
6 at the Judicial Counsel of California. On January 15, 2015, her request to withdraw was  
7 granted.

8 4. On February 6, 2015, Peter Goodman was appointed to represent  
9 defendant TOMADA. Given the volume of discovery and his late entry into the case,  
10 Mr. Goodman requested that the matter be continued to April 10, 2015, for a further  
11 status conference. That request was granted.

12 5. After his appointment, Mr. Goodman received approximately 500 pages  
13 of DEA 6 reports from Mrs. Giacinti and two compact disks containing more than 800  
14 telephone calls and texts intercepted during the course of a Title III wiretap obtained by  
15 the government on April 8, 2014. Included with those disks were approximately 500  
16 transcripts of the intercepted calls and texts. Mr. Goodman has been reviewing these  
17 materials but has not completed that review and needs additional time to do so.

18 6. Mr. Goodman has also requested additional discovery from AUSA Barry  
19 and has provided him with a 1 TB hard drive for the requested materials. Mr. Goodman  
20 expects to receive that hard drive by the end of this week.

21 7. Mr. Goodman is informed and believes that his co-counsel, Brian  
22 Berson, also anticipates receiving additional discovery from AUSA Barry this week.  
23 Given the amount of discovery not yet reviewed by defense counsel, Mr. Goodman and  
24 Mr. Berson are jointly requesting that the current date for a status conference in this  
25 matter of April 10, 2015, be vacated and the matter be continued to May 22, 2015, at  
26 9:30 a.m. before this Court for a further status conference. AUSA Barry has been  
27 informed by defense counsel of their request for a continuance and has indicated that  
28 he does not oppose that request.

1           8.     The parties hereby stipulate and agree that time should be excluded under  
2 the Speedy Trial Act pursuant to 18 U.S.C. §§3161(h) (7)(A) and (7)(B)(iv) from April 10,  
3 2015, through May 22, 2015, in the interests of justice and to ensure the effective  
4 assistance of counsel for defendants TOMADA and NEELY.

5 SO STIPULATED

6 DATED: April 8, 2015

MELINDA HAAG  
United States Attorney

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8  
9 By:                   /s/                    
10 KEVIN BARRY  
Assistant United States Attorney

11  
12 SO STIPULATED

13 DATED: April 8, 2015

14  
15                   /s/                    
16 PETER GOODMAN  
Attorney for Defendant  
17 MICHAEL TOMADA

18 SO STIPULATED

19 DATED: April 8, 2015

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21                   /s/                    
22 BRIAN BERSON  
Attorney for Defendant  
23 CHRISTOPHER NEELY

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1                   ORDER VACATING STATUS CONFERENCE DATE AND  
2                   SETTING NEW DATE FOR FURTHER STATUS CONFERENCE

3           Based on the stipulation of the parties and good cause appearing therefor,  
4 IT IS HEREBY ORDERED that the April 10, 2015, date currently set for defendants  
5 TOMADA and NEELY to appear before this Court for a Status Conference is vacated  
6 and the matter is continued to May 22, 2015, at 9:15 a.m. for a further Status  
7 Conference.

8           IT IS FURTHER ORDERED that time shall be excluded under the Speedy Trial  
9 Act pursuant to 18 U.S.C. §§3161(h)(7)(A) and (B)(iv) from April 10, 2015, through  
10 May 22, 2015, in the interests of justice and to ensure effective assistance of counsel.  
11 The Court finds that the ends of justice served by granting the continuance outweigh  
12 the best interests of the public and the defendant in a speedy trial.

13 DATED: April 9, 2015

